

UNITED STATES DISTRICT COURT

for the

Southern District of Indiana

United States of America
v.

CURTIS PENNINGTON,

Defendant(s)

Case No.

1:19-mj-0604

CRIMINAL COMPLAINT

I, the complainant in this case, state that the following is true to the best of my knowledge and belief.

On or about the date(s) of November 1 - December 31, 2018 in the county of Marion in the
Southern District of Indiana, the defendant(s) violated:

Code Section

Offense Description

Count 1: 18 U.S.C. § 2251(a) and
(e)

Sexual Exploitation/Attempted Sexual Exploitation of a Child

This criminal complaint is based on these facts:

See Attached Affidavit.

☒ Continued on the attached sheet.



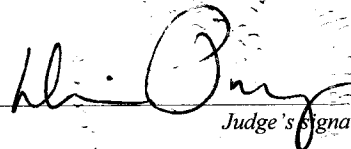
Complainant's signature

Kurt Spivey, TFO, FBI

Printed name and title

Sworn to before me and signed in my presence.

Date: 06/07/2019



Judge's signature

City and state: Indianapolis, Indiana

Doris L. Pryor, U.S. Magistrate Judge

Printed name and title

AFFIDAVIT

I, Kurt Spivey, hereby depose and state as follows:

1. **Affiant:** I am a Master Detective in the Digital Forensics Unit of the Indianapolis Metropolitan Police Department (IMPD). I am also a cross-designated Task Force Officer assigned to the FBI Violent Crimes Against Children Task Force.

2. **Experience:** I have over 25 years of law enforcement experience. I have investigated State and Federal criminal violations related to high technology or cybercrime, child exploitation, and child pornography. I have written numerous search warrants involving internet crimes against children cases and participated in their execution.

3. **Training:** I have attended the National Crimes Against Children Conference multiple times and attended classes related to investigating the online sexual exploitation of children. I am also a member of the Indiana Internet Crimes Against Children Task Force, which includes multiple federal, state, and local law enforcement agencies. I am currently assigned to operate in an undercover capacity on the Internet to identify and investigate persons attempting to exploit or solicit sexual acts with children or trafficking in child pornography. As a Task Force Officer, I am authorized to investigate violations of the laws of the United States and to execute warrants issued under the authority of the United States.

4. **Information:** The statements in this affidavit are based on information obtained from my observations and communications, as well as information learned from other law enforcement officers, including IMPD Detective

Laura Smith (Det. Smith) and witnesses. Because this affidavit is being submitted for the limited purpose of an Arrest Warrant and Criminal Complaint, the affiant has not included each and every fact known to me concerning this investigation. I have set forth only the facts that I believe are necessary to establish probable cause to believe that, in the Southern District of Indiana and elsewhere, the Defendant, **CURTIS PENNINGTON (“Pennington”)**, of Indianapolis, Indiana has committed criminal offense of **Attempted Sexual Exploitation of a Child, 18 U.S.C. § 2251(a) and (e)**. On or between November 1, 2018 to December 31, 2018, Curtis Pennington did knowingly employ, use, persuade, induce, entice, or coerce or did attempt to employ, use, persuade, induce, entice, or coerce Minor Victim 1 to engage in any sexually explicit conduct for the purpose of producing any visual depiction of such conduct, if such person knows or has reason to know that such visual depiction will be transported or transmitted using any means or facility of interstate or foreign commerce or in or affecting interstate or foreign commerce or mailed, if that visual depiction was produced or transmitted using materials that have been mailed, shipped, or transported in or affecting interstate or foreign commerce by any means, including by computer, or if such visual depiction has actually been transported or transmitted using any means or facility of interstate or foreign commerce or in or affecting interstate or foreign commerce or mailed.

Federal Statute

5. **Sexual Exploitation of a Child / Attempted Sexual Exploitation of a Child (18 U.S.C. § 2251(a) and(e)):** This statute provides that any person who employs, uses, persuades, induces, entices, or coerces any minor to engage in, or who has a minor assist any other person to engage in, or who transports any minor in or affecting interstate or foreign commerce, or in any Territory or Possession of the United States, with the intent that such minor engage in, any sexually explicit conduct for the purpose of producing any visual depiction of such conduct or for the purpose of transmitting a live visual depiction of such conduct, shall be punished as provided under subsection (e), if such person knows or has reason to know that such visual depiction will be transported or transmitted using any means or facility of interstate or foreign commerce or in or affecting interstate or foreign commerce or mailed, if that visual depiction was produced or transmitted using materials that have been mailed, shipped, or transported in or affecting interstate or foreign commerce by any means, including by computer, or if such visual depiction has actually been transported or transmitted using any means or facility of interstate or foreign commerce or in or affecting interstate or foreign commerce or mailed. It is also a crime to attempt to sexually exploit a child.

Definitions

6. **Definitions**

A. "Minor" means any person under the age of eighteen years. *See* 18 U.S.C. § 2256(1).

B. “Sexually explicit conduct” means actual or simulated (a) sexual intercourse, including genital-genital, oral-genital, or oral-anal, whether between persons of the same or opposite sex; (b) bestiality; (c) masturbation; (d) sadistic or masochistic abuse; or (e) lascivious exhibition of the genitals or pubic area of any person. *See* 18 U.S.C. § 2256(2).

C. “Visual depictions” include undeveloped film and videotape, and data stored on computer disk or by electronic means, which is capable of conversion into a visual image. *See* 18 U.S.C. § 2256(5).

D. Dropbox: Dropbox is a file-hosting service, operated by Dropbox, Inc., which is headquartered in California. Dropbox provides cloud storage and file-synchronization, among other services. Dropbox users can create a special folder on the user's computer, the contents of which are synchronized to Dropbox's servers and to other computers and devices where the user has installed Dropbox, keeping the same files up-to-date on all devices. Dropbox uses a freemium business model, where users are offered a free account with a set storage size, with paid subscriptions available that offer more capacity and additional features. Dropbox allows a user to access his / her files through the internet; moreover, Dropbox allows users to give others access to Dropbox files.

Investigation

7. Curtis Pennington is a resident of the Southern District of Indiana.

8. The pseudonym “Minor Victim 1” represents a female child who is less than 3 years old. Minor Victim 1 lived in the Southern District of Indiana with Pennington and his girlfriend.

9. **Case Overview:** In 2018, Dropbox reported to the National Center for Missing and Exploited Children (NCMEC) that an account, later linked to the defendant and his address, contained child pornography. The Dropbox account had a registered gmail address, which was yeddir69@gmail.com. I obtained a search warrant for this associated Google email account, and the contents of that account revealed that Curtis Pennington used Minor Victim 1 to engage in sexually explicit conduct, specifically the lascivious display of the child’s genitals for the purpose of creating a visual depiction of that conduct and he transported those images to his Google account.

10. **NCMEC Cybertip:** On April 02, 2019, I was assigned a child pornography investigation under IMPD case number IP190032932. This case file contained Cybertip Report 44678946 from the National Center of Missing and Exploited Children (NCMEC). NCMEC received information on December 27, 2018 from Dropbox, Inc. Dropbox reported that an account member using the email address of yeddir69@gmail.com and the screen name of “Lloyd Larsen” uploaded 13 images of child pornography to the corresponding Dropbox account. This upload was completed using an IP Address belonging to Verizon Wireless. I viewed the images contained in the Cybertip Report and confirmed that they all depicted

prepubescent girls with exposed genitalia and/or in sexual conduct with adults and/or other children.

11. On April 2, 2019, I submitted a Marion County (Indiana) Grand Jury subpoena request to Verizon Wireless, requesting subscriber information for the Verizon Wireless Account. The subpoena return indicated that a natting IP Address was used. With a natting IP Address, multiple numbers connected to that specific date and time when the above-mentioned Dropbox uploads were made. Further review of the phone numbers provided by Verizon indicated that only seven phone numbers with a 317 area code connected to that IP Address. I began to research the local numbers to identify the users.

12. The phone number 317-618-5563 connected to the Verizon Wireless IP Address on 7 occasions during the requested time period.

13. On May 6, 2019, I submitted a Marion County search warrant to Google, Inc. requesting content of the yeddir69@gmail.com account and all related services. On June 5, 2019, I received the requested information from Google.

A. Google provided account information that identified the specific Android Phone made by Alcatel which was used to connect to their services. It further identified a phone number associated to the account as 317-618-5563.

B. While reviewing the content in the Google account for the email address yeddir69@gmail.com, I found a file system that consisted of approximately 100 images of child pornography.

i. I specifically identified approximately 10 images, which through my training and experience, seemed to have been taken by the suspect (as opposed to images that are readily available online as part of recognized series of child pornography).

ii. All 10 images seemed to include the same female child victim, the same adult subject, and seemed to have been taken in the same environment. The photos show Minor Victim 1, who was a toddler, in sexual contact with an adult male subject. There are images showing the male in a state of nudity, manipulating his own penis. At least one of the images depicts the lascivious display of Minor Victim 1's genital or pubic area.

C. I further searched the data associated with those 10 images. Google included the specific location, by coordinates, where each image was created. The coordinates of each image were entered into Google Maps and Google Earth. Each image was identified to have been taken within the Summerwood on Town Line Apartments, specifically Building 12, which is located at 2525 Baneberry Lane, Indianapolis, within the Southern District of Indiana. This building contains 12 separate residential apartments.

D. Also found in the Google search warrant return were specific images that contained location data indicating that they were taken on the property of Butler University, specifically at Clowes Memorial Hall.

i. The images depict an adult male manipulating his own penis while seated in a motor vehicle on November 27, 2018.

ii. Clowes Memorial Hall is a performing arts venue on the campus of Butler University.

iii. The location data coordinates showed that the images were created in the parking lot and the street in front of Clowes Hall.

iv. In researching some of the other IP addresses contained in the data received from Google, Det. Smith noticed that several of the IP logins returned to Butler University. The dates on the IP address included November 26, November 27, November 30, and December 7, 2018. Det. Laura Smith spoke with Butler University employee, Michael Denny regarding those IP addresses. Denny identified the IP address (159.242.0.120) as a guest to their network. He advised that there would be no information retained with those connections to the network.

E. With respect to the Summerwood on Town Line Apartments, I identified 12 apartments on the east end of building #12 (2525 Baneberry Lane,) where the coordinates on the 10 images (including the images depicting Minor Victim 1) indicated the images were taken. The property management for the apartments eliminated 6 of the 12 apartment from the search. Those six apartments were rented to new tenants, after the photos

were taken. The six remaining apartments of interest were #1213, #1221, #1222, #1223, #1224 and #1233.

F. An open data search was conducted on all six apartments in Summerwood's Building #12. While researching the address 2525 Baneberry Lane Apartment #1221, it was discovered that the current resident is Curtis Pennington, a white male with a date of birth of xx-xx-1975 (redacted but known to law enforcement).

i. Additional researches of open source data and social media indicated that Curtis Pennington works at or is affiliated with Butler University's music program. This affiliation is consistent with the location data from the images found in the Google search warrant return linked to Butler University and specifically Clowes Memorial Hall.

ii. Curtis Pennington's Facebook, Inc. account was found and law enforcement reviewed the publically visible data. This data confirmed Pennington's involvement with Butler University. Pennington's image from Facebook, as well as the Bureau of Motor Vehicles image, was consistent with the partial images of the suspect recovered from the Google report.

iii. A further review of Pennington's publically available Facebook images shows multiple images of a young girl consistent with age of Minor Victim 1.

iv. Pennington's publically available Facebook images also show a dog. At least one image of this same dog was found in the data received from Google.

v. In two different Facebook images, Pennington appeared to be wearing the same checkered shirt, which was worn by the male suspect who was depicted in the images of Minor Victim 1, engaged in sexual conduct with Minor Victim 1.

14. **Search Warrant and Suspect Interview:** On June 6, 2019, this Affiant obtained a search warrant in the Marion County Superior Court. This warrant permitted law enforcement to search the apartment located at 2525 Baneberry Lane, Apt. 1221 as well as the person of Curtis Pennington.

A. This Affiant and other members of the Indiana Crimes Against Children Task Force executed the search warrant on June 6, 2019.

B. Pennington was present. I had the chance to observe Pennington, and his physical appearance matched the appearance of the male in the photos who was engaged in sexual contact with Minor Victim 1. In at least one image in the Google drive, the male appears to have a tattoo on one of his upper arms. Pennington has a tattoo on his upper arm.

C. Pennington was interviewed by this Affiant after he was advised of his *Miranda* rights. The interview was audio and video recorded. Pennington admitted to taking photos of himself. He admitted to taking the photo of himself in the mirror with his penis exposed (while touching his

penis with his hand) which was found in the Google return. He denied taking the picture of himself in the shower. Pennington requested to speak to an attorney and this Affiant terminated the interview.

15. **Identification of Minor Victim 1:** On June 6, 2019, Det. Smith met with the mother of Minor Victim 1. The mother was shown the images of the Minor Victim 1 and the male whose penis was exposed. The mother identified Minor Victim 1 and she identified the male as Pennington. She indicated that she knew their bodies and recognized them as the individuals in question.

16. **Image Description:** With respect to the images found in the Google drive of Minor Victim 1, they are described as follows:

A. **Photo 1:** Photo 1 depicts Minor Victim 1 sitting on a bed between the legs of another person. She is nude and her genital / pubic area is lasciviously displayed.

B. **Photo 2:** Photo 2 depicts Minor Victim 1 sitting on a bed between the legs of an adult male. Minor Victim 1 is wearing a diaper and the adult male has his erect penis exposed.

C. **Photo 3:** Photo 3 depicts Minor Victim 1 sitting or kneeling between the legs of the adult male. It appears as though the child's belly is touching the genital area of the adult male. The adult male's penis is exposed and the child is touching his thigh.

17. **Interstate and Foreign Commerce:** From my training and experience, I know that both Google and Dropbox function using the internet, which is a means and facility of interstate and foreign commerce.

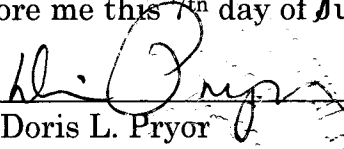
18. **Venue:** The Baneberry residence, where Pennington produced the sexually explicit images of Minor Victim 1, is located within the Southern District of Indiana.

19. **Conclusion:** Based on my training and experience, and the facts as set forth in this affidavit, there is probable cause to believe that CURTIS PENNINGTON committed the listed offense. I request the Court to issue a Criminal Complaint and Arrest Warrant for this offense.



Kurt Spivey
FBI Task Force Officer

Subscribed and sworn before me this 7th day of June, 2019.



Doris L. Pryor
United States Magistrate Judge
Southern District of Indiana

